

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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IBORO EDEMKO,

Plaintiff,

- against -

CV 06-204
(BMC) (ARL)

COUNTY OF NASSAU, POLICE OFFICER
MICHAEL A. BARBUCK, POLICE OFFICER
KNOX AND POLICE OFFICER DAPHNE GROSS,

Defendants.

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JOSEPH ANCI, an attorney duly admitted to practice law in the courts of the State of New York, and admitted to practice in the United States District Court for the Eastern District of New York, declares as follows, under the penalties of perjury:

1. I am a Deputy County Attorney in the Office of Lorna B. Goodman, Nassau County Attorney, attorneys for defendants County of Nassau, Police Officer Michael Barbuck, Police Officer Edward Knox and Police Officer Dafni Gross, incorrectly sued herein as Daphne Gross, (hereinafter referred to collectively as the "Defendants") in this action. As such, I am familiar with the facts and circumstances as set forth herein, as a result of research and my review of the County Attorney's file.

2. This declaration is made in support of the Defendants' motion seeking an order granting partial summary judgment in favor of the Defendants, dismissing Plaintiff's *Monell* claims and Plaintiff's claims for false arrest, unlawful imprisonment and excessive force on the ground that there is no genuine issue of material fact to be tried, and granting any such other relief as the Court deems just and proper.

3. This action was commenced by Plaintiff Iboro Edemeka (hereinafter referred to as “Plaintiff”) on January 17, 2006. Subsequently, Plaintiff amended her Complaint to substitute Dafni Gross for Office “Jane Doe.” The Amended Complaint was filed on February 16, 2007. A copy of Plaintiff’s Amended Complaint is annexed hereto as “*Exhibit A*.”

4. Issue was joined upon service of the Defendants’ Answer on or about April 17, 2006. Defendants filed an Answer to the Amended Complaint on March 5, 2007. A copy of the Defendants’ Answer to the Amended Complaint is annexed hereto as “*Exhibit B*.”

5. During the course of discovery, Plaintiff testified at a deposition held on March 30, 2007. Annexed hereto as “*Exhibit C*” are the portions of Plaintiff’s deposition transcript referenced in the Defendants’ Statement of Material Facts.

6. During the course of discovery, Defendant Michael Barbuck testified at a deposition held on March 30, 2007. Annexed hereto as “*Exhibit D*” are the portions of Michael Barbuck’s deposition transcript referenced in the Defendants’ Statement of Material Facts.

7. During the course of discovery, Defendant Edward Knox testified at a deposition held on March 30, 2007. Annexed hereto as “*Exhibit E*” are the portions of Edward Knox’s deposition transcript referenced in the Defendants’ Statement of Material Facts.

8. During the course of discovery, Defendant Dafni Gross testified at a deposition held on March 30, 2007. Annexed hereto as “*Exhibit F*” are the portions of Defendant Dafni Gross’s deposition transcript referenced in the Defendants’ Statement of Material Facts.

9. During the course of discovery, non-party witness Dinah Edemeka testified at a deposition held on April 27, 2007. Annexed hereto as “*Exhibit G*” are the portions of Dinah Edemeka’s deposition transcript referenced in the Defendants’ Statement of Material Facts.

10. The NCPD Case Report (#204CR0030369), Crime Report (#204CR0030369) and Arrest Report (#204AR0006683) pertaining to the arrest of Plaintiff on April 19, 2004, are annexed collectively hereto as “*Exhibit H.*”

11. The Supporting Deposition of Michelle Cummings, a victim of the assault by Dinah Edemeka, taken by NCPD Officer Edward Knox at 1615 hours on April 19, 2004, and pertaining to the arrest of Plaintiff on April 19, 2004, is annexed hereto as “*Exhibit I.*”

12. The Supporting Deposition of Shameeka Harris, a victim of the assault by Plaintiff, taken by NCPD Officer Michael Barbuck at 1615 hours on April 19, 2004, and pertaining to the arrest of Plaintiff on April 19, 2004, is annexed hereto as “*Exhibit J.*”

13. The Nassau County District Court Informations charging Plaintiff with the crimes of Obstructing Governmental Administration, Resisting Arrest and Assault in the Third Degree are annexed hereto as “*Exhibit K.*”

14. NCPD records of 911 calls made from the immediate vicinity of the MetroPlaza pharmacy on April 19, 2004 reporting the fight between Plaintiff, Dinah, Harris and Cummings are annexed hereto as “*Exhibit L.*”

15. Relevant portions of Plaintiff’s medical records during her stay at Nassau University Medical Center from April 20, 2004 to April 23, 2004 are annexed hereto as “*Exhibit M.*” (Because of the personal nature of these records, Defendants will send copies of Exhibit M to the Court along with the courtesy copies instead of via ECF)

16. United States Income Tax Returns for MetroPlaza Pharmacy for the years 2003-2006 are annexed hereto as “*Exhibit N.*” (Because of the personal nature of these records, Defendants will send copies of Exhibit N to the Court along with the courtesy copies instead of via ECF)

17. NCPD form PDCN 79 physical condition of defendant questionnaire signed by Plaintiff on April 20, 2004 is annexed hereto as “*Exhibit O.*”

18. Footage of the interior of the MetroPlaza Pharmacy taken by store security cameras on April 19, 2004 is annexed as “*Exhibit P.*” (DVD containing the footage to be included with courtesy copy)

For all the reasons set forth in the accompanying Memorandum of Law, it is respectfully requested that the Court issue an order granting the Defendants’ motion for summary judgment, dismissing Plaintiff’s claims for municipal liability, false arrest, unlawful imprisonment and excessive force, and granting such other and further relief as this Court deems just and proper.

Dated: Mineola, New York
September 11, 2007

By: LORNA B. GOODMAN
Nassau County Attorney
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